

#	COMMENT	SOURCE	POLICY SECTION	DIDD RESPONSE
1	The way the policy reads seems to create a double standard. It seems like individual rep payees have more leniency than organizational rep payees. It would seem SSA Rep Payee guidelines should supersede on all scenarios and not just organizational rep payee.	Lori Mouse, CFO, Bios of Tennessee, LLC	VI.B.3(a)	Do not concur. The Social Security Administration has established two sets of standards. Only one is applicable to organizational representative payees.
2	VI.A.1 (a.) Remove "independently" and add "in a manner consistent with the stated goal."	Jonathan Chapman, TNCO	VI.A.1 (a)	Do not concur. If the person supported desires to manage his/her money independently then he/she will be supported to achieve that goal. Restated for clarity.
3	Add utilities to the list with food, shelter, and medical care.	Jonathan Chapman, TNCO	VI.B.3 (c)	Do not concur. Utilities is subsumed under the requirement for shelter.
4	Need a definition of how they view a resource limit. Also, who do we notify, why, and how? Need to update language to reflect what they are really trying to say about the ABLE Act. What if a person wants to spend their money or donate to church/charity instead of put in ABLE fund?	Jonathan Chapman, TNCO	VI.B.3(k)(ii)	The representative payee is responsible for reporting to Department of Human Services when the person's maximum resource limit is reached for Medicaid funding. In terms of the ABLE Act, a link is provided for further information about this program which is overseen by the Department of the Treasury in Tennessee. Use of an ABLE account is optional for a person and is not required.
5	Remove from policy.	Jonathan Chapman, TNCO	VI.B.3 (k) iii	Do not concur. To purpose of this requirement is to prevent exploitation of persons supported.

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6	We are required to account for all money so remove the time frame. Remove sentence regarding dated signatures of the individuals who supplied the funds. If someone receives money from family, friend, etc. this is not always possible.	Jonathan Chapman, TNCO	VI.C.2 (n)	Do not concur with the recommendation to remove the timeframe for update allowance ledgers. This is an example not a requirement. Do not concur with recommendation to remove requirement for dated signature. The purpose of this requirement is to prevent exploitation of persons supported. The signature requirement pertains to the personal allowance ledger. If a friend or family member gives a person supported money then the dated signature is not required. However, if the person supported then gives the money received from a friend or family member to his/her staff and that money is subsequently disbursed by staff, a dated signature would be required.
7	What if the conservator refuses to sign this agreement? Suggested a statement be made that when appropriate the provider may offer advances. If the person supported and/or conservator does not wish to engage in a repayment plan a COS will be held to address how the person supported will pay for the items they want/need, including seeking other means to pay their debt.	Jonathan Chapman, TNCO	VI.D.4	It should first be determined if the conservator has authority over financial matters for a person. We believe that the section related to advancement of funds appropriately outlines how advances are to be handled.
8	Does an electronic signature work for this requirement? Clarify at the beginning of policy to include anytime a signature is mentioned that an electronic signature is acceptable as well.	Jonathan Chapman, TNCO	VI.H.5	Electronic record keeping is encouraged. The requirements concerning the use of electronic signatures are found in Policy 80.4.4.

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9	Remove the part stating this is based on the person's income and financial obligation. Should read "The restitution plan should be individualized based on the role in creating property damage."	Jonathan Chapman, TNCO	VI.J.1	Do not concur. It is not the intention to imply that people will not be encouraged to accept responsibility for their role in property damage. The person supported needs for food, shelter and medical care take precedence over restitution for property damage. For some persons supported, individualized means that it may take longer to pay restitution due to their income and financial obligations. An individualized approach could mean that the person's discretionary spending for entertainment is curtailed in order to pay restitution, which may help change property damaging behavior. In any scenario, the person's income and financial obligations must be considered in addition to the person's role in creating property damage.
10	There is a mention of "personal funds ledger" yet there does not appear to a definition of what this is or what is required in it.	Carrie Hobbs Guiden, The Arc Tennessee	VI.B.3(j)	Concur with the recommendation to add a definition for personal funds ledger to the policy.
11	Needs to be updated as ABLETN is fully operational at this time. The changes should be made now to reflect that fact.	Carrie Hobbs Guiden, The Arc Tennessee	VI.B.3(k)ii	Concur. The policy has been revised.
12	Under "provider representative payees, The Arc Tennessee recommends being specific about what qualifies as "justification" of expenditures made on behalf of the person supported	Carrie Hobbs Guiden, The Arc Tennessee	VI.B.3(k)iii	An explanation for the purchase qualifies as justification.

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13	The Arc TN supports the shift toward not requiring receipts for the money individuals supported spend themselves provided that they have signed for receipt of the funds. This change should decrease paperwork and allow for more independence for the individual in cases where an individual receives cash. However, there are many instances where providers have moved away from using cash and checks and are instead using reloadable credit/debit cards. In these cases, there is a clear paper trail already in place for the funds and requiring the signature of the individual would be redundant. The Arc Tennessee recommends revisiting the requirement for the signature. If the goal is to prove that the individual did receive the money, there should	Carrie Hobbs Guiden, The Arc Tennessee	VI.C.1(a-b)	The use of reloadable credit/debit cards is acceptable if the provider maintains a clear paper trail, in which case signatures of the person would not be required.
14	The Arc Tennessee questions why two people have to be married to share expenses when it is very common for roommates to share expenses and take turns buying household items; Furthermore, The Arc Tennessee questions whether or not a person supported will be able to donate to their church if they choose to do so, given that this is an expenditure that would benefit someone else but not fall under the exceptions listed. We understand the desire to keep individuals from being exploited, but these appear to be unnecessary and burdensome restrictions on how someone spends his/her money when the provider is helping him/her.	Carrie Hobbs Guiden, The Arc Tennessee	VI.E.2.(d)(1-2)	The text at VI.E.2.(d)(1-2) was deleted prior to publication of the policy in advance of the public meeting. The policy reads as follows, "d. Using a person's funds for the benefit of another person." There are not any prohibitions in the policy against a person supported donating to his/her church. The majority of churches maintain individualized accounting records of contributions to the church. The person supported may obtain from the church a statement of his/her contributions to his/her church.
15	The comment on reimbursement of long distance calls is confusing. Is the point that the individual is reimbursed for long distance calls made by the provider while in the home? If so, this needs to be clearly state. The way it currently reads it almost seems as though providers must reimburse the individual for any long distance calls made from the home, even ones by the individual.	Carrie Hobbs Guiden, The Arc Tennessee	VI.F.6	The policy specifies reimbursement of expenses that are attributable to provider agency use. The policy reads as follows: "Providers shall reimburse the person supported for 100% of the cost of long distance telephone calls made from the home and for other utility expenses that are attributable to provider agency administrative use."

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16	The Arc Tennessee recommends updating the “mental retardation” language to “intellectual disability” if possible to be consistent with TN code. If the language is tied to licensure, we recommend researching ways to make changes in the future.	Carrie Hobbs Guiden, The Arc Tennessee	VI.G.2	The text at VI.G.2 was deleted prior to publication of the policy in advance of the public meeting. The policy reads as follows: "Providers licensed by the Department of Intellectual and Developmental Disabilities as a provider of Residential Habilitation or Placement Services are responsible for the cost of the person supported meals and lodging within the room and board payment. The provider is permitted to apply the amount of the person’s food stamps to the total amount spent for food. The provider must maintain receipts to document that the person’s food stamps were
17	We were hoping that verbiage would change a little bit as QAC said it that as the individual cannot have any money to carry with them to work or to go out unless staff are right there with them and get their receipt if it's over \$10. We have many individuals who are quite capable of going to work, taking \$10 - \$15, signing for that, getting their lunch, not being at risk of exploitation, but we cannot say they are able to count their money perfectly, but we know they are good about getting their money back. Right now that's not allowed. We're told they cannot do that, the staff has to oversee that. With the push toward employment first, we just need some loosening of that, because staff are not going to be at the workplace and able to oversee them purchase their lunch and making sure they get a receipt and then we will be financially responsible for that loss. That would be important for us to look at that, especially in terms of, you know, it's the person's money, and they express--a few of them expressed so strongly they want to have \$20 or \$30 on them, but because we can't say	Damaris Betancourt, Life Bridges	VI.B.3(c)	The meaning of QAC is unknown. Please see Section VI.A. The ISP should address the person's capabilities and desires regarding personal funds management. This includes information about the extent to which funds will be managed by the person or others. The information shared in this question is inaccurate.

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18	Section omitted with the exceptions about individuals able to purchase a gift for relative or friend. We need clarification because we have so many individuals with boyfriends and girlfriends who take them out for lunch. We want to make sure it's clarified that's something they can do, buy a gift for their girlfriend. Now that it's omitted we were unsure what the intent was.	Damaris Betancourt, Life Bridges	VI.E.2.(d)(1-2)	The policy was revised based on feedback from TennCare, the State Medicaid Agency. The intent was to comport with the Centers for Medicare and Medicaid Services (CMS) Home and Community Based Settings Final Rule. The Final Rule assumes that people have control over their own resources and can make purchases for others of their own choosing. The purpose of removing it from the policy was to align with the intent and requirement of the Final Rule. Only

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1	This should be effective once brought to the attention of the Provider, not the department.	Jonathan Chapman, TNCO	VI.C.2	Do not concur. The Department is accountable to TennCare for ensuring remediation of violations from the date discovered, reported or otherwise brought to the department's attention.
2	We disagree. There must be notification of the violations. There must be an opportunity for the Provider to review and defend against the alleged violations that are the subject of the sanctions.	Jonathan Chapman, TNCO	VI.C.5	It is clear from TCA 33-2-408 that any violation of the provider agreement, provider manual or the waiver can result in sanctions. The opportunity for a provider to defend its position against alleged violations is included in the appeal process.
3	Is this only when an agency goes out of business, or does it include CMS coming back? Doesn't allow for certain things DIDD has said to do. Does this mean DIDD can take money back from the agency for this? We disagree with is provision.	Jonathan Chapman, TNCO	VI.C.6	<p>The policy was revised for consistency with the Provider Agreement which reads as follows:</p> <p>A.21. Sanctions and Licensure Action. For failures to comply with this Agreement or the standards and requirements referenced herein, DIDD, TennCare, and the applicable state licensure or certification authorities (collectively referred to in this Section A.21 as the "Sanctioning Agencies") may invoke sanctions and licensure actions pursuant to TCA § 33-2-408, as well as those sanctions contained in the DIDD Provider Manual including but not limited to Mandatory Technical Assistance, any other applicable state licensure or certification laws, and/or other applicable state and federal rules or regulations. It is hereby agreed and acknowledged between the parties that any sanctions and/or licensure actions imposed pursuant to this Agreement do not include any injury or damage incurred by a third party.</p> <p>(a) Sanctions— The Sanctioning Agencies may impose sanctions including, but not limited to, the following:</p> <p>(vii) levy sanctions to equal liquidated damages accessed against the Department due to the provider's failure to provide services as authorized.</p>
4	Is it ten (10) or fifteen (15) days? This is unclear.	Jonathan Chapman, TNCO	VI.F.2	It is fifteen (15) days.

5	This should allow for days in appeal to be free from sanction. This seems like retaliation for filing an appeal.	Jonathan Chapman, TNCO	VI.F.6	This mirrors the stipulation within the provider agreement; the sanction is to be calculated from the date of the imposition.
6	Two versions are posted for comment (one includes classes of sanctions and one does not). Also, need to give classification to the examples used in the document.	Jonathan Chapman, TNCO	General Comment	One version of the revised policy was posted for comment. There is not a one to one relationship between violations and classes of sanctions. For example, a violation of the Provider Manual could result in a Class A, Class B or Class C sanction depending on the number of persons supported impacted, the frequency of occurrence or whether the violation is isolated or widespread.
7	The Sanctions Policy references the DIDD Provider Manual, however it is not easily accessible on the DIDD website. The Arc Tennessee recommends putting a link to the Provider Manual under the provider tab of the DIDD website so it is easily located by anyone who wants to read it.	Carrie Hobbs Guiden, The Arc Tennessee	General Comment	The Provider Manual is on the Provider page on the DIDD website. A link to the Provider Manual will be placed in a more readily accessible location.
8	The Arc Tennessee doesn't profess to be an expert in sanctions, however, Appendix A defines what could be sanctioned without much specificity as to how the range of penalties will be assessed. As written, it appears rather subjective and could create unforeseen challenges in the future. The Arc Tennessee recommends a detailed and objective process of assessing penalties so that providers fully know what to expect.	Carrie Hobbs Guiden, The Arc Tennessee	General Comment	Appendix A is not an all-encompassing list of sanctions that may be applied by DIDD. The combinations of circumstances that can lead to a sanction and influence the severity of a sanction are too numerous and varied to specify. Warning letters provide a precise notice of an action that will lead to a sanction if repeated. In the rare circumstance that a warning is skipped, the basis for skipping is specified in the letter and at that point an appeal is available.

9	It lists all the positions in DIDD and TennCare that receive copies of the warning letters but does not specify who at the provider organization receives the warning letter. The Arc Tennessee recommends that these positions be listed as well and that the Chairperson of the Board of Directors (when they exist) be included in that list. Boards of Directors are held responsible for the activities of an organization and it should not be assumed that the Executive Director/CEO will share the letters.	Carrie Hobbs Guiden, The Arc Tennessee	VI.B.3	This information appears in the preceding section. The policy reads as follows at VI.A.5. "Warning, sanction, and immediate jeopardy sanction letters shall be sent by email or certified mail to the executive director of the provider agency and the board chair or agency owner, if applicable."
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